

## **TITLE 16 DENTAL BOARD OF CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Dental Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements of arguments orally or in writing relevant to the action proposed at a hearing to be held at the the **Embassy Suites Hotel, 150 Anza Boulevard, Burlingame, California 94010. The telephone number is (650) 342-4600. The hearing will be held at 1:30 p.m., on July 11, 2003.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Dental Board of California at its office not later than 5:00 p.m. on July 7, 2003, or must be received by the Dental Board of California at the hearing. The Dental Board of California, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 1763(c) of the Business and Professions Code, and to implement, interpret or make specific Section 1763 of said Code; the Dental Board of California is considering changes to Division 10, Title 16 of the California Code of Regulations as follows:

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

#### **Adopt California Code of Regulations Article 4.5, Section 1042-1042.6**

Existing law (AB982), Chap. 1131, Statutes of 2002) among other things creates the California Dental Corp Loan Repayment Program. This new program encourages recently licensed dentists who are linguistically and culturally competent to practice in underserved locations in California. In exchange for them practicing in these areas, the program authorizes that the Board may award up to \$105,000 for repayment of educational loans. The dentist would have to commit to a three-year service contract. The board is responsible for implementing this program.

### **Sections of the Proposed Regulations**

**1042** – This section defines certain terms as they relate to this program.

**1042.1** – This section outlines the guidelines for the selection of applicants. In addition to possessing a current valid license to practice dentistry in this state, applicants must meet specified criteria. The criteria and a grading point system is spelled out, including, among other criteria, allowing an applicant one point each, if he or she speaks more than one Medi-Cal threshold language; has additional experience working in a health field related to dentistry in an underserved area; and is not participating in any other educational loan repayment program. The points will help the selection committee get a better sense of the qualifications of the applicants, but the number of points that an applicant receives is not the determinative factor in selecting dentists to participate in this program. The Board shall consider giving priority consideration to those applicants who are best suited to meet the cultural and linguistic needs of patients from dentally underserved areas.

**Section 1042.2** – This section of proposed language defines the process an applicant must follow to be considered for the program including the submission of an application, which includes: stating which criteria an applicant meets; providing the name of each loan company to which the applicant is repaying a loan; a current loan statement; the outstanding balance and the purpose for which the loan was given.

**Section 1042.3** – This section of proposed language defines the processing times for applications. There is a proposed 120-day window in which the Board must notify the applicant of its decision on the application.

**Section 1042.4** – This section of proposed language outlines program implementation and requires a participating dentist to sign a written agreement with the Board agreeing to the terms of the program. In addition, it outlines the repayment terms if the participant receives less than the maximum allowable under the statute.

Other proposed language includes the dentist hold a valid, active, current and unrestricted license for the duration of the program.

**Section 1042.5** – This section of language proposes, if a dentist participating in the program is unable to complete his or her obligation, the process and penalties for failing to meet his or her agreement with the Board, including a reduction in loan repayment or repayment to the Board of amounts paid out. In addition, it defines the administrative and civil consequences of the inability to complete the obligation.

**Section 1042.6** – This section of language outlines the program reinstatement requirements necessary for reinstatement to the program.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Cost or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17651 Requires Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Dental Board of California has determined that this regulatory proposal would not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Dental Board of California is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effects on Housing Costs: None

## EFFECT ON SMALL BUSINESS

The Dental Board of California has determined that the proposed regulations would not affect small businesses because the proposed regulation implements a loan repayment program for individuals, not for businesses.

## CONSIDERATION OF ALTERNATIVES

The Dental Board of California must determine that no reasonable alternative which is considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons that the proposed described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

## INITIAL STATEMENT OF REASONS AND INFORMATION

The Dental Board of California has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

## TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Dental Board of California, 1432 Howe Avenue, Suite 85, Sacramento, California 95825.

## AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection, by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below **[or by accessing the website listed below]**.

## CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name: Linda M. Madden  
Address: 1432 Howe Avenue, Suite 85  
Sacramento, California 95825

Telephone: (916) 263-2300  
Fax Number: (916) 263-2410  
E-Mail Address: [linda\\_madden@dca.ca.gov](mailto:linda_madden@dca.ca.gov)

The back-up contact person is:

Name:	Georgetta Coleman-Griffith
Address:	1432 Howe Avenue, Suite 85 Sacramento, California 95825
Telephone:	(916) 263-2300
Fax:	(916) 263-2140
E-Mail Address:	georgetta_coleman-griffith@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Linda Madden (916) 263-2300, ext. 2327.

Website Access Materials regarding this proposal can be found at [www.dbc.ca.gov](http://www.dbc.ca.gov)

#### Article 4.5 California Dental Corps Loan Repayment Program

##### **§ 1042. Definitions.**

For purposes of this article:

(a) "Code" means the Business and Professions Code.

(b) "Board" means the Dental Board of California or any committee of the Board to which it delegates authority to make decisions pertaining to the Dental Corps Loan Repayment Program.

(c) "Full-time status" means providing dental services for a minimum of 40 hours per week, for a minimum of 45 weeks per year. The 40 hours per week may not be accrued in less than four days per week. The 40 hours per week may be worked at more than one practice setting (as defined by Section 1971(f) of the code). At least 32 hours per week must be spent providing clinical services at the approved practice setting(s) during normal office hours.

(d) "Program" means the California Dental Corps Loan Repayment Program described in Article 9.5 of Chapter 4 of Board 2 (commencing with Section 1970) of the code.

(e) "Recently received a license" means that the dentist was first issued a license to practice dentistry in any state of the United States or in Canada within 5 years from the date on which the application for loan repayment is filed.

NOTE: Authority cited: 1614 and 1972, Business and Professions Code. Reference: Sections 1971-1972, Business and Professions Code.

**1042.1. Guidelines for Selection of Applicants.**

(a) The Board shall give each applicant who meets one of the threshold criteria listed in Section 1972(b)(1) of the code one point for each of those criteria that the applicant meets and one point for each of the following criteria that the applicant meets:

(1) Speaks more than one Medi-Cal threshold language, as defined in Section 1971(g) of the code (one point for each language that is spoken by the population served by the clinic(s) at which the applicant will be providing services).

(2) Has additional experience working in health field related to dentistry in a dentally underserved area (one point for each year).

(3) Is not participating in any other educational loan repayment program at the time of application.

(4) Is entitled to hold him or herself out as a specialist under Section 651(h)(5)(A)(i) of the code because he or she completed a specialty education program approved by the American Dental Association and Commission on Dental Accreditation; is eligible for examination by a national specialty board recognized by the American Dental Association; or is a Diplomate of a national specialty board recognized by the American Dental Association.

(5) Completed a dental exchange program during dental school or postgraduate training in which the applicant provided services to a population that speaks any Medi-Cal threshold language, as defined in Section 1971(g) of the code.

(6) Will be providing dental services at multiple practice settings (as defined in Section 1971(f) of the code).

(7) Is willing to participate in the program if he or she is granted either less than he or she requests in repayment, or less than the maximum repayment allowed under the program.

(8) Any other statement or information indicating the applicant's interest in participating in the program.

(b) The number of points that an applicant receives shall not be the determinative factor in selecting dentists to participate in the program. The Board shall consider providing priority consideration to applicants who, in its sole discretion, are best suited to meet the cultural and linguistic needs and demands of patients from dentally underserved populations dispersed throughout California.

NOTE: Authority cited: 1614 and 1972, Business and Professions Code. Reference: Sections 1971-1972, Business and Professions Code.

**1042.2. Application; Process.**

(a) A dentist who desires to participate in the program shall submit an application to the Board on a form prescribed by the Board, which includes all of the following:

(1) Applicant's name, California dental license number, address, telephone numbers, social security number, date of birth, e-mail address (if available), number of any permits issued by the Board, and date of issuance of first dental license and issuing body.

(2) Which of the criteria listed in Section 1972(b)(1) of the code or in section 1042.1 the applicant meets and why, including dates of and institutions where postgraduate training occurred.

(3) The name of each loan company at which the applicant has a loan the applicant wishes repaid, together with a current loan statement that contains the loan company's name and mailing address, the applicant's name and loan account number, the outstanding balance of the loan, the purpose for which the loan was given, and the date on which the loan statement was issued.

(4) Whether the applicant has ever been in default or had a judgment lien against the applicant for any debt, and an explanation for each default or judgment lien.

(5) Whether the applicant is willing to sign, or has signed, a written agreement with the practice setting(s) committing to three years of full-time service in a dentally underserved area.

(6) The name and address of each practice location at which services are to be provided under the program.

(7) A statement authorizing release to the Board of information enumerated in the application and any attachments thereto.

(8) A certification under penalty of perjury, signed and dated by the practice setting's administrative officer, whose name is printed below his/her signature, that the facility has entered into an agreement with the applicant for a minimum of three years; that the applicant can speak a Medi-Cal threshold language; that it will pay the applicant a prevailing wage and not offset any loan repayments by the program against the applicant's salary; and that it is a "practice setting" as defined in Section 1971(f) of the code.

(9) A certification under penalty of perjury as to the contents of the application and any attachments, signed and dated by the applicant.

(b) Application filing periods will be dependent upon available funding and the number of openings in the program. Every application filing period shall be posted on the board's website and shall close not earlier than 30 days after the date on which openings are posted. An application that is either not complete or not received by the final filing date shall not be considered, and shall be returned to the applicant.

NOTE: Authority cited: 1614 and 1972, Business and Professions Code. Reference: Sections 1971-1972, Business and Professions Code.

### **1042.3. Application Processing Times.**

(a) Within 15 working days of receipt of an application to participate in the program, the Board shall inform the applicant in writing whether the application is complete and accepted for filing or is deficient and what specific information is required, or whether the application period has closed.

(b) Within 120 working days from the date of filing of a complete application, the Board shall inform the applicant in writing of its decision on the application.

NOTE: Authority cited: Section 1614, Business and Professions Code. Section 15376, Government Code.  
Reference: Sections 1970-1976, Business and Professions Code; and Section 15376, Government Code.

### **1042.4. Program Implementation.**

(a) The participating dentist shall sign a written agreement with the Board acknowledging the amount to be received under the program and committing to all terms of the program.

(b) Loan repayment under the program shall be made to the participating dentist and in accordance with Section 1975 of the code. If a dentist participating in the program receives a loan repayment of less than \$105,000, 24 percent of the loan repayment amount will be made after completing one year of service in a dentally underserved area, 33 percent made after completing two consecutive years of service in a dentally underserved area, and 43 percent after completing three consecutive years of service in a dentally underserved area.

(c) Absence from the practice cannot exceed 7 weeks, paid or unpaid, in a calendar year, except as otherwise required in order to comply with the Family Medical Leave Act and/or the California Family Rights Act.

NOTE: Authority cited: 1614, 1970.5, and 1972, Business and Professions Code. Reference: Sections 1970.5-1975, Business and Professions Code.

### **1042.5. Process and Penalties When Dentist is Unable to Complete Obligation; Notification to Board.**

(a) A dentist participating in the program shall notify the Board in writing within 15 working days of any change in the dentist's full-time status including, but not limited to, a decrease in the required number of hours

providing dental services, termination, resignation, or a leave of absence in excess of the time permitted in section 1042.4(c).

(b) A dentist participating in the program who is unable to complete the required three years of service shall be required to repay to the Dental Board of California an amount equal to the total amount of loan repayment paid by the program. If the Board receives evidence of a breach of the agreement required in section 1042.4(a), whether through the participating dentist's notice or otherwise, the Board shall notify the participating dentist in writing of the breach, any amounts to be repaid to the Board, and the date by which the dentist shall make such repayment. A dentist who is unable to complete the required three years of service shall be required to make such repayment of the required amount to the Board within one calendar year after notification by the Board.

(c) The dentist may petition the Board for modification of the amount and/or time for repayment of funds received under the program. The petition shall be in writing, accompanied by those documents necessary to establish the basis for the petition, and shall be filed with the Board not later than 90 days after the date of the notification for repayment by the Board. A petition shall be accepted for filing only if it is based on one or more of the following grounds:

(1) The dentist was terminated without cause.

(2) The dentist was unable to complete the required three years of service due to factors beyond the dentist's control.

(3) Both the practice setting and the dentist have agreed to the termination of the dentist's employment, and the dentist has been unsuccessful in obtaining subsequent qualifying employment within 3 months after termination of employment.

(d) The Board shall review the petition and supporting documents. It shall notify the petitioning dentist in writing of its decision within 60 days after receipt of the complete petition.

(e) Failure to repay the amount due within one calendar year as required in subsection (b), or as permitted by the Board in subsection (c), above shall constitute unprofessional conduct and shall subject the dentist's license to discipline. It shall also result in the accrual of interest on the outstanding balance, reporting of the default to

credit agencies, lien(s) on the dentist's personal property, and garnishment of the dentist's future wages. It will also subject the dentist to additional civil suit resulting in damages, including the imposition of attorney's fees.

NOTE: Authority cited: 1614, 1070.5, and 1072, Business and Professions Code. Reference: Sections 1072, Business and Professions Code.

#### **1042.6. Program Reinstatement.**

(a) The participating dentist may petition the Board for reinstatement into the program. The petition shall be in writing, accompanied by those documents necessary to establish the basis for the petition, and shall be filed with the Board not later than one calendar year after the date of the notification from the Board in subsection

(b). The petition shall explain why the factors contributing to the petitioner's inability to complete the prior obligation no longer exist. A petition shall be accepted for filing only if it is based on one or more of the following grounds:

(1) The dentist was terminated without cause.

(2) The dentist was unable to complete the required three years of service due to factors beyond the dentist's control.

(3) Both the practice setting and the dentist agreed to the termination of the dentist's employment.

The petition shall be accompanied by a certification under penalty of perjury, signed and dated by the practice setting's administrative officer, whose name is printed below his/her signature, that the facility has entered into an agreement with the applicant for a minimum of three years; that the applicant can speak a Medi-Cal threshold language; that it will pay the applicant a prevailing wage and not offset any loan repayments by the program against the applicant's salary; and that it is a "practice setting" as defined in Section 1971(f) of the code.

(b) The Board shall review the petition and supporting documents. It shall notify the petitioning dentist in writing of its decision within 60 days after receipt of the completed petition. The Board shall grant or deny the petition based upon, in its sole discretion, available funds and the cultural and linguistic needs, and demands of the patients from dentally underserved populations, and the petitioner's ability to comply with the terms of the program.

NOTE: Authority cited: 1614, 1070.5, and 1072, Business and Professions Code. Reference: Sections 1072, Business and Professions Code.